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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,570	07/24/2001	Roberto DeLima	RSW9-2000-0124-US1	5486
58505	7590	04/08/2008	EXAMINER	
STEVENS & SHOWALTER, L.L.P. BOX IBM 7019 CORPORATE WAY DAYTON, OH 45459-4238			PHILLIPS, HASSAN A	
			ART UNIT	PAPER NUMBER
			2151	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/912,570	DELIMA ET AL.	
	Examiner	Art Unit	
	HASSAN PHILLIPS	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 January 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-6,8-12,14 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-6,8-12,14 and 16-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This action is in response to communications filed January 18, 2008.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 3-6, 8-12, 14 and 16-24, have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1,3-6, 8-12, 14, 17-19, 21-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero et al. (hereinafter Romero), U.S. Patent Pub. No. 2002/0129127, in view of Miller et al. (hereinafter Miller), U.S. Patent No. 7,197,547.

5. In considering claims 1, 10, and 12, Romero discloses a method, a computer readable product embodied on computer readable media readable by a computing device, and apparatus for configuring a load balancer (130) for dispatching client (100) requests amongst a plurality of servers (160-162), said method, computer readable product, and apparatus comprising: obtaining a configuration file (300) for each of said

plurality of servers, wherein the configuration file is stored in a local memory (i.e. memory of the agent 170) of its associated one of said plurality of servers and contains parameters (330) including variables to be applied for configuring a load balancing scheme for said plurality of servers (pg. 4, par.'s 0031-0033), said configuration file obtained by repeating for each of said plurality of servers: selecting by said load balancer, a next one of said plurality of servers (i.e. this occurs when the agent 170 is located at the load balancer and polls individual servers), (see pg. 4, par. 0031, also see pg. 2, par. 0016); sending a request across a corresponding network from said load balancer to said next one of said plurality of servers for a corresponding parameter for said configuration file (i.e. this occurs when the agent 170 is located at the load balancer and polls the individual servers for parameters to include in the configuration file), (see pg. 4, par.'s 0031, 0032, also see pg. 2, par. 0016); receiving a corresponding parameter for said configuration file from said plurality of servers, (pg. 4, par. 0031, 0032); and configuring a load balancing algorithm by said load balancer in accordance with said parameters that were read out of each corresponding configuration file, (pg. 4, par. 0031, 0032).

Although the teachings of Romero disclose substantial features of the claimed invention, they fail to expressly disclose: obtaining the configuration file from each of said plurality of servers, wherein each configuration file is stored in a local memory of its associated one of said plurality of servers at a predefined Uniform Resource Locator (URL); sending the request across the corresponding network from said load balancer to said next one of said plurality of servers for a corresponding configuration file using a

standard network protocol request to the corresponding URL; receiving either a corresponding configuration file formatted into a markup language supported by the load balancer or an error message from said next one of said plurality of servers; and validating parameters in said corresponding configuration file if received.

Nevertheless, in analogous teachings, Miller discloses obtaining a configuration file (i.e. the "response to the test request") from each of said plurality of servers (i.e. each server in the host server system 230), wherein each configuration file is stored in a local memory of its associated one of said plurality of servers at a predefined Uniform Resource Locator (URL), (col. 11, lines 16-35); sending a request across a corresponding network from a load balancer (240) to a next one of said plurality of servers for the corresponding configuration file using a standard network protocol request to the corresponding URL, (col. 11, lines 16-35); receiving either the corresponding configuration file formatted into a markup language supported by the load balancer or an error message (i.e. a response different from a predetermined response) from said next one of said plurality of servers, (col. 11, lines 32-35); and validating parameters in said corresponding configuration file if received, (col. 11, lines 35-39).

Thus, given the teachings of Miller, it would have been obvious to one of ordinary skill in the art to modify the teachings of Romero with Miller to expressly disclose obtaining the configuration file from each of said plurality of servers, wherein each configuration file is stored in a local memory of its associated one of said plurality of servers at a predefined Uniform Resource Locator (URL); sending the request across

the corresponding network from said load balancer to said next one of said plurality of servers for a corresponding configuration file using a standard network protocol request to the corresponding URL; receiving either a corresponding configuration file formatted into a markup language supported by the load balancer or an error message from said next one of said plurality of servers; and validating parameters in said corresponding configuration file if received. This would have advantageously provided an intelligent load balancer that would be able to determine which servers, out of the plurality of servers, were not functioning properly, and thus would have been able to transparently route client requests more efficiently based on the information obtained from the servers by the load balancer, (Miller, col. 11, lines 39-52, also see Romero, pg. 2, par. 0016).

6. In considering claims 3, 11, and 21, the combined teachings of Romero and Miller suggest that each of said configuration files has a file path and name in accordance with a standard file path and naming protocol, (Romero, pg. 4, par. 0033, Miller, col. 11, lines 16-32). One of ordinary skill in the art would combine the teachings of Romero with Miller for reasons previously indicated in considering claims 1, 10, and 12.

7. In considering claims 4, 17, and 22, Romero discloses said parameters provided in at least one of said configuration files comprises content-based routing rules, (pg. 4, par. 0031).

8. In considering claim 5, the combined teachings of Romero and Miller suggest that said content-based routing rules comprise a URL mask, (Romero, pg. 2, par. 0018, Miller, col. 11, lines 16-32). One of ordinary skill in the art would combine the teachings of Romero with Miller for reasons previously indicated in considering claim 1.

9. In considering claims 6 and 18, Romero discloses said parameters of at least one configuration file comprise at least one of time-of-day rules, session affinity rules cookie affinity rules, server health information and a link to said server health information, (pg. 4, par.'s 0031 and 0032).

10. In considering claim 8, Romero discloses said plurality of servers comprise a server farm (200) coupled to receive client requests via the Internet (120), (pg. 3, par. 0026).

11. In considering claim 9, the combined teachings of Romero and Miller suggest said configuration files are stored in one of an HTML or XML file format, (Romero, pg. 2, par. 0018, Miller, col. 11, lines 16-32). One of ordinary skill in the art would combine the teachings of Romero with Miller for reasons previously indicated in considering claim 1.

12. In considering claims 14, 19, and 23, Romero further suggests polling each one of said plurality of servers for said configuration file pertaining to each of said

servers, (pg. 4, par. 0031); and configuring the load balancing algorithm based on said parameters in said configuration files, (pg. 4, par. 0031).

Although the teachings of Romero disclose substantial features of the claimed invention, they fail to expressly disclose: initializing the load balancer by manually inputting the address information of each one of said plurality of servers, and validating each of said configuration files.

Nevertheless, Romero does disclose including the polling functionality at the load balancer, (pg. 2, par. 0016).

Thus, if not implicit in the teachings of Romero, it would have been readily apparent to one of ordinary skill in the art to modify the teachings of Romero to expressly disclose initializing the load balancer by manually inputting the address information of each one of said plurality of servers. This would have obviously disclosed one way of providing the load balancer the capability to poll the servers, (pg. 2, par. 0016, pg. 4, par. 0031). Further, if not implicit in the teachings of Romero, it would have been readily apparent to one of ordinary skill in the art that since Romero teaches polling each one of said plurality of servers for said configuration file pertaining to each of said servers, and configuring the load balancing algorithm based on said parameters in said configuration files, the teachings of Romero suggest validating each of said configuration files. This would have obviously made sure the configuration files were from an official source before utilizing the information in the files, (pg. 4, par. 0031).

13. Claims 16, 20, 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero in view of Miller, and further in view of Reichmeyer et al. (hereinafter Reichmeyer), U.S. Patent 6,286,038.

14. In considering claims 16, 20, and 24, although the teachings of Romero disclose substantial features of the claimed invention, they fail to expressly disclose: storing configuration files provided by a server manufacturer.

Nevertheless, storing configuration files provided by a server manufacturer was well known in the art at the time of the present invention. This is evidenced by Reichmeyer, who, in an analogous art, discloses storing configuration files provided by a server manufacturer, (col. 3, lines 7-29).

Thus, if not implicit in the teachings of Romero, it would have been readily apparent to one of ordinary skill in the art to modify the teachings of Romero to disclose storing configuration files provided by a server manufacturer. This would have advantageously preconfigured the servers in cases where the installation environment was known, (Reichmeyer, col. 3, lines 7-29).

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HASSAN PHILLIPS whose telephone number is (571)272-3940. The examiner can normally be reached on Mon-Fri (8am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HP/
Examiner, Art Unit 2151

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2151